

REMARKS/ARGUMENTS

Presently, claims 1-23 remain pending. In the Office Action dated February 8, 2007, claims 1, 5 -7, 9-15, and 17-23 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 7,039,933 ("*Chen*"). Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Chen* in view of U.S. Patent 6,138,119 ("*Hall*"). Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Chen* in view of U.S. Patent 6,564,263 ("*Bergman*"). Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Chen* in view of Official Notice.

Claim Amendments

Applicant has amended the claims, largely to make the claims more readable, as well as rewriting a dependent claim into an independent claim. These amendments were done for reasons other than to distinguish the prior art.

Claim 1 has been amended to recite "a metadata object" and "a content object" as opposed to the "at least one." This limitation narrows the claim, but improves the readability. The limitation has also been added "and wherein the metadata object identifies the content object." This essentially incorporates the previously recited claim 6 into the independent claim which allows claims 6 to be amended further (see below).

Claims 5 and 7 have been amended to reflect the simplified reference to "a metadata object" as opposed to "at least one metadata object."

Claim 6 has been amended to recite that the "metadata object identifies the ~~at least one~~ content object as a movie." This describes one embodiment and support for this limitation can be found at page 9, lines 18-20.

Claim 9 has been amended to recite "content and data related to the content" to clarify the wording, as opposed to "related content and data". Additional amendments clarify the antecedent basis so as to recite "the content and the data." Further, the limitation of "a content

server storing the content and...” reflects that the content server stores the content. Support for this can be found page 15, lines 28-30.

Claim 10 has been amended to better state the invention, namely that the “application [is] associated with the application identifier.”

Claim 19 has amended the preamble to consistently reference “related data” which is found later in the body of the claim.

Claim 23 has been amended to state a more accurate grammar – namely “data by the application” as opposed to “at the application.”

None of the above claim amendments introduces new matter, and no new searching of prior art is thought to be required.

What is meta-data?

The term metadata is commonly defined at a very high level as “data about data” (see, e.g., www.georgetown.edu/uis/ia/dw/GLOSSARY0816.html). However, in the context of the present invention, the specification states more specifically that “metadata is the data that describes the attributes of the content” in an asset, where an asset is combination of metadata and content of a digital video program. “In addition, the metadata includes data identifying the type of asset it is associated with and specific characteristics of the asset, such as the asset’s structure. (Par. 29). The metadata is used in the headend of the cable system “to identify an appropriate application stored in the headend that understands the structure of the asset....” (Par. 30.) Specifically, the metadata is used by an Asset Management System (AMS) in the headend (par. 36) that contains an application program that “interpret[s] the metadata the AMS retrieved ...” (par. 37.) In summary, the meta-data is data processed by an application in a cable headend or the like, for purposes of knowing how to handle an asset. Further, it is fundamental that the meta-data provides information about the content it is associated with. It is further fundamental that the metadata is related to specific content in the asset. Thus, one cannot substitute different

metadata in an asset, as the metadata relates to the specific content in the asset. The meta-data and the content are logically tied together.

General Discussion of *Chen*

Prior to discussion of how the claims are distinguishable from the prior art, it is worthwhile to discuss the *Chen* reference in particular, as it alleged to disclose many of the limitations of the claims. Because this is the first instance of the Examiner citing the reference, it is relevant to ensure there is a common understand of what it discloses, particularly with respect to “metadata.” Applicant submits that the disclosure of *Chen* analogized to metadata (namely, the “tags”), is significantly different than the “metadata” in the present invention.

The operation of *Chen* can be easily explained in light of a typically application of its technology. Consider a television program, such as a nationally produced morning news program, at which selected times a banner appears at the bottom of the screen reporting local weather conditions, or local late-breaking news. A related variation is when the television program is “shrunk” to a smaller window taking up half the television screen, and another window appears adjacent that reports separate information (e.g., at the end of a television movie, the credits are frequently “shrunk” to a smaller window, while a separate window simultaneously appears showing a commercial for local news following the movie.).

In the above scenario, the ‘movie’ or main program is called the “program content” whereas the local news or weather information etc. is called the “enhancement”, “local enhancement”, “local program content” or simply “local content.” (*Chen*, Abstract, col. 1, lines 1-31.). So as to avoid any confusion, the term “enhanced content” is used. *Chen* discloses that that the enhanced content can be displayed in various ways including a semi-transparent banner, as a separate image beside the program content, or in the case of locally produced commercials, the enhanced content may completely override the network provided commercials. (*Chen*, col. 1, lines 35-63.)

When the program content is streamed, the location in the program content (e.g., corresponding to “when” in the national morning news program) where the local enhanced content is to be inserted is defined by a “tag.” Thus, a tag would indicate to processing equipment when to display the local weather banner during the morning news program. The tag would also indicate where (e.g., via a URL) the local weather information can be found. There are two types of tags – one which initiates a local action, and another which replaces (overrides) a local action. The tags can be inserted into the programs remotely, or locally. (*Chen*, col. 3, line 45 – col. 4, line 19).

Chen illustrates various examples of tags (see, e.g., col. 6, lines 12-17). It is clear, that the tags function to identify the enhanced programs that are to be displayed at certain times in the program content. While the tags do not themselves contain the enhanced content, they do indicate where the enhance content can be located. This allows the processing equipment to retrieve the enhanced content and “splice” or “insert” the enhanced content into the program data when indicated by the tag. (Col. 5, lines 23-44).

As indicated, the tags are placed at various locations in the program content stream. They can be inserted “upstream” by the producer of the program, or locally inserted. However, the tags are not dependent on the subject matter of the program content. That is, a “local weather” tag could be just as easily inserted into any news, movie, or other program content that is being distributed. **Consequently, the tag does not describe any structure, content, or other information regarding in the program content into which the tag is inserted in.**

Once this distinction is understood, it will be appreciate that the “tag” in *Chen* cannot be analogized to the “metadata” of the present invention. As stated in the specification, the metadata includes data that “contains information as to the content associated with the asset.” (page 9, line 12), or in other words, metadata “**describes the attributes of the content.**” (Page 9, line 21). In the present invention, the metadata is inherently ‘tied’ to the content of the asset. That is, the content could be a movie, and the metadata indicates, for example, the title of the movie, and therefore the metadata is related to the content. The metadata describes an attribute of the content – in this case, the title of the movie.

Because the “tag” in *Chen* does not indicate any information about the contents of the program data, it cannot be analogized as being the same as “metadata.” *The “tag” in Chen indicates information about the enhanced content, but not the program content.* The enhanced content is separate from the program content.

DISCUSSION OF THE PATENTABILITY OF THE CLAIMS

1. Claims 1.

Claim 1 is alleged to be anticipated by *Chen*. The Office Action states: “...*Chen discloses an asset combining both related content and data for distribution and service implementation in a digital cable system (figure1)....*”

However, *Chen* is deficient for several reasons. First of all, Figure 1 of *Chen* discloses the components for multiplexing data, and there is no disclosure of an “asset.” A better argument, may be that Figures 2 or 3 of *Chen* disclose an “asset”, as they disclose a program (e.g., MPEG program) with an embedded enhanced content (e.g., an overlay in Figure 2, and substituted content that is spliced in the program content in Figure 3). However, it is clear from reading *Chen* that the enhanced content is not “related content and data” as interpreted from the specification. In the present invention, the “related content and data” pertains to the “metadata object” and the “content object”, wherein the specification indicates that metadata describes the attributes of the content. Using this interpretation of “related”, it is clear that the “enhanced content” is not “related” to the program content.

Second, the Office Action states that *Chen* discloses “*at least one metadata object (column 5, lines 2-7 and 11-14; the tags are being interpreted as the metadata object), wherein the at least one metadata object comprises an application identifier identifying an application associated with processing the asset (column 10, lines 1-15).*”

As indicated, the “tags” are not metadata describing the program content – the tags describe the enhanced content. Further, there is *no* indication in the recited column 10, lines 1-15 of what is alleged to disclose the “application identifier identifying an application associated

with processing the asset.” Applicant is unable to ascertain what specifically the examiner alleges to be the application identifier. It is noted that *Chen* discloses (in col. 9, lines 53-57) that a “supervisor program” processes the tag. However, if the “supervisor program” is analogized to the “application”, there is no disclosure of identifying the singular supervisor program with an identifier, as there is only one supervisor program disclosed in *Chen*.

Third, the Office Action states *Chen* discloses “*at least one content object (column 5, lines 2-7), wherein the at least one content object represents data to be stored based upon instructions originating from the application as a result of interpreting the at least one metadata object (column 9, lines 7-21).*”

The cited portions of *Chen* (col. 5, lines 2-7) clearly reference the streams comprising the program content and the embedded tags. Thus, the program content is equated as the “content object.” For reasons discussed previously, the disclosure in *Chen* does not show that the program content is related in any way to the tags embedded therein. *Chen* teaches that the tags represent enhanced content – e.g., local content – which is not tied to the program content. Indeed, the very motivation of *Chen* is to allow logically separate content – e.g., local content – to be inserted in program content. Consequently, the tags which point to the logically separate content are not logically related to the program content.

The Office Action also references col. 9, lines 7-21, which states that the supervisor process stores the tag contents in memory (e.g., table) and that it may override a tag, based on reading a subsequent tag. At most, this shows that a tag may impact the storage of another tag. However, there is no disclosure in the cited section of storing the program content based on the tag. The recited claim limitation does not read “wherein the *metadata* represents data to be stored based upon instructions originating from the application.” Rather, the claim limitation as now amended reads “wherein the *content object* represents data to be stored based upon instructions originating from the application as a result of interpreting the metadata object.” Thus, in the present invention, it is the content object that is stored based on instructions from the application reading the metadata. Consequently, *Chen* is deficient with respect to anticipating this limitation as well.

Because *Chen* fails to disclose several limitations present in claim 1, *Chen* cannot said to anticipate claim 1.

Applicant has also amended claim 1 to recite that “and wherein the metadata object identifies an attribute of the content object,” support for which was previously identified in the specification. Applicant observes that this is consistent with the interpretation of “metadata”, which describes an attribute of the content object, and the metadata provides information on an attribute of the content object, such as the title of the a movie conveyed by the content object (see claim 6). As noted, the tags in *Chen* do not indicate any attributes of the program content into which they are inserted.

Claim 5, 6, and 7

With respect to these claims, each of these dependent claims incorporate all the limitations recited in claim 1, and *Chen* does not disclose all the limitations found in claim 1. *Chen* cannot therefore anticipate these dependent claims.

Independent claim 9

The Office Action alleges that *Chen* discloses “a staging server that receives an asset from a content provider (fig. 7; column 7, lines 1-3), wherein the asset comprises both content and data related to the content (column 5, lines 2-7), the data related to the content further comprising an application identifier (column 10, lines 1-15).”

Applicant presumes that the Examiner is analogizing the “capture device 502” from Figure 7 of *Chen* as the staging server. It is admitted that the capture device in *Chen* discloses receiving program content with embedded tags. However, as noted before, the claim recites an asset which must comprise “both content and data related to the content”, and as discussed before, the “tags” in *Chen* do not relate to the structure of the program contents. Further, the claim recites “the data related to the content further comprising an application identifier.” The reference to column 10, lines 1-15, does not indicate what aspect is analogized to an “application identifier.” As disclosed in the specification, (see, e.g., page 13) there are multiple applications

in the headend, and the application identifier in the metadata indicates which application should process the content data. There is no corresponding indication of multiple applications in *Chen* that process the program content, and thus, there would be no need to indicate a particular application using an application identifier. As discussed before, Applicant submits that *Chen* does not disclose any type of application identifier, nor does *Chen* disclose multiple applications.

The Office Action further states: “a content server in communication with a subscriber set-top box for providing the content to the set-top box (figure 7, box 522).” It is presumed that the multiplexer identified as box 522, is alleged to correspond to the “content server.”

As indicated in the specification, various types of content data can be stored on different content servers (see, e.g., pages 14-16). The repeated reference to “storing” in the specification and the word “server” would denote to one skilled in the art a storage system capable of providing information upon demand. In contrast, the multiplexer in *Chen*, would not be considered as “server”, as it does not store data, nor provide data on demand – it provides it regardless of whether the recipient is requesting the content and provides it in response to receiving it from a source. Specifically, the system in *Chen* provides program content regardless of whether a specific cable set top box initiates a request or not.

Applicant has amended the limitation to recite an inherent limitation of a “server”, namely: “a content server storing the content and in communication with a subscriber set top box for providing the content to the set-top box.”

Finally, the Office Action alleges that *Chen* discloses “an application associated with the asset identified by the application identifier to interpret the data related to the content, wherein the application identifies a server that receives at least a portion of the content from the staging server (column 9, lines 7-21).” The cited text refers to the processing of the supervisor program of a program stream, and examining the tags therein.

The reference to *Chen* (col. 9, lines 7-21) only discloses storing of tags in a table, and does not identify any “application identifiers.” Further, the text in *Chen* pertains to processing tags so as to ascertain what enhanced content is to be inserted, and does not pertain to processing the program content. Still further, the cited text reference by the Office Action does not disclose any servers. Applicant is unable to rebut the allegation without any more detailed information, other

than to state in a conclusionary manner that the cited text does not disclose the identified limitation.

Claim 10

The Office Action alleges that “*Chen discloses a system of claim 9[sic], further comprising an asset management system that parse the asset to determine the application using the application identifier (column 9, lines 7-21).*” Claim 10 has been amended to recite the “the application associated with using the application identifier” to better state the invention, as opposed to distinguish the prior art. Specifically, it is the asset management system that uses the application identifier, not the application, and the asset management system uses the identifier to identify the appropriate application.

Notwithstanding the amendment above, *Chen* does not disclose an asset management system, nor does *Chen* disclose using the application identifier to determine which of several applications are to process the asset, based on the value of the application identifier.

The referenced section of *Chen* references the process associated with the supervisor program of Figure 8. This is a singular program, and there is no disclosure in *Chen* of other programs that alternately or are able to process the asset – rather there is only the singular supervisor program. Further, there is no disclosure of an application identifier to select among the different programs, because *Chen* does not use various programs. Still further, there is nothing in the section corresponding to structure, namely the asset management system. Hence, the cited reference in *Chen* does not disclose the limitations of claim 10.

Claim 11

The Office Action alleges that “*Chen discloses a system of claim 10[sic], wherein the asset management system maintains a database associating the content and the data related to the content (column 4, lines 66-67).* The referenced text states that “[t]he local system maintains tables of information that apply local changes to the program content, as will be described hereinafter.”

As previously discussed by the Applicant, the “content” recited in the claim can be embodied by a program, such as a movie, which the Examiner analogizes to the program content of *Chen*. The “data related to the content” recited in the claim is analogized by the Examiner to the “tags” of *Chen*. In the present invention, the metadata is related to the information conveyed by the “content.” (Alternatively, this could be stated as the metadata is related to the contents of the “content”, but that is not the most readable phraseology). For example, the “data related to the content” can be embodied as the title of the movie, which is related to the content, embodied as the movie.

In the present invention, one embodiment involves a database associating, for example, the movie itself and the title of the movie. This allows, for example, using the database in conjunction with retrieving the movie as identified by its title.

In *Chen*, the “tags” are wholly independent from the program content into which they are inserted. The content (program content in *Chen*) is not related to the “tag.” Further, the table (which is analogized to be the database) is not maintaining an association of the “content” and the “data related to the content.” In *Chen*, the table maintains an association of the tag and the enhanced content associated with the tag (not with the program content). To restate the operation in *Chen* via an example, the program content (e.g., a morning nationally produced news program) is streamed with an embedded tag, which indicates an action (e.g., splice in a local weather report). The table maintains an association of the tag and where the actual local video image of the local weather report can be located. *Chen* does not disclose maintaining in a database any relationship between the morning news program and the tag.

In the present invention, one embodiment allows a cable headend to receive various assets (e.g., movie for video on demand services), and use the metadata to store the asset in an appropriate location for future use. For example, certain movies can be stored in certain databases. In this case, the headend may rely upon a database maintaining an association between the asset and the title (metadata) so as it can retrieve the movie content when needed. It should be appreciated by this point that the present invention and *Chen* are directed to completely different concepts.

Consequently, Applicant submits that the limitations recited in claim 11 are not disclosed by *Chen* and claim 11 is patentable over *Chen*.

Claim 12

The Office Action alleges that “*Chen discloses a system of claim 10 [sic], wherein the asset management system resides between the application of the staging server such that the staging server (figure 7, part 502) and the application (figure 7, part 514) are in indirect communication.*”

According to the cited figure, if the “capture device” is the staging server and the “tag handling supervisor” is the application, that would mean that asset management system would be one of the components between the two. In Figure 7, this would be the “memory” 506, or the “tag authoring tool” 512.” It is not clear which is alleged to be the asset management system. However, it appears beyond reasonable debate that memory in a computer system is not the same as the “asset management system” of the present invention. That would leave the “tag authoring tool” as potentially the asset management system. The tag authoring tool is used to insert or generate tags into the program content. (*Chen*, col. 7, lines 10-17). This does not readily map to the asset management system disclosed in the specification (see, e.g., page 12-13.)

Further, the claim recites that the “staging service and application are in indirect communication.” The mere reference to Figure 7, and identifying the corresponding components, does not show how this limitation is met. Applicant finds the disclosure of *Chen* only describes the “capture device” as a device “that decodes the program from its broadcast form to a digital file, possibly just a buffer if the process occurs in real time.” There is no disclosure of the “indirect communication” recited above.

Thus, Applicant submits that *Chen* does not disclose the limitations found in claim 12, and it therefore patentable over *Chen*.

Claim 13

The Office Action alleges that “*Chen discloses a system of claim 10[sic], wherein the asset management system is operable to instruct the content server to request at least a portion*

of the content from the staging server (column 9, lines 7-21).” The referenced section of *Chen* discloses the supervisor program processing tags and storing the tags in a table.

Based on the prior rejection of claim 9, the Examiner has analogized the “content server” with the multiplexer 522 in *Chen* and the “staging server” as the “capture device 502. The claim recites the “the content server to request at least a portion of the content from the staging server.” However, the cited reference in *Chen* references the supervisor program processing tags. There is no disclosure of any communication between the multiplexer and the capture device, nor, is there any identification of the “asset management system.”

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 13 is patentable over *Chen*.

Claim 14

The Office Action alleges that “*Chen discloses the system of claim 9 [sic], wherein the application is operable to identify the content server based upon the data related to the content. (column 9, lines 7-21).*” Again, the reference section in *Chen* discloses the supervisor program processing tags.

Because the tags in *Chen* are wholly not related to the program content, the tags cannot identify which content server stores the asset. The Examiner has analogized the multiplexer 522 of Figure 7 in *Chen* to be the content server. The referenced sections in *Chen* discuss Figure 8, and there is no disclosure in the cited sections even discussing the multiplexer of Figure 7, let alone how a particular “content server” (e.g., multiplexer) can be identified.

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 14 is patentable over *Chen*.

Claim 15

The Office Action alleges that “*Chen discloses a system of claim 9 [sic] wherein the content server receives at least a portion of the content from the staging server (column 9, lines 7-21).*” Again, the reference section in *Chen* discloses the supervisor program processing tags.

The Examiner has analogized the multiplexer 522 of Figure 7 in *Chen* to be the content server and the capture device 502 to be the staging server. The referenced sections in *Chen*

discuss Figure 8, and there is no disclosure in the cited sections discussing Figure 7. Further, Figure 7 discloses the capture device providing data to the system 504, not the multiplexer 522.

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 15 is patentable over *Chen*.

Claim 17

The Office Action alleges that “*Chen discloses a system of claim 9 [sic] wherein the application comprises a provisioning user interface (figure 7, parts 508 and 510) to allow a user to identify the at least one server to receive at least a portion of the content (column 7, lines 10-14).*” The referenced section in *Chen* of Figure 7 discloses “input devices” and a “display.” The referenced section of column 7, lines 10-14 pertain to the “tag authoring tool.”

discloses the supervisor program processing tags.

The Examiner has analogized the “tag authoring tool” along with the user input device/display to be a “provisioning user interface.” *Chen* indicates that “the local tag-authoring tool is used if the local system wishes to put tags into program content from scratch.” (*Chen*, col. 7, lines 14-15.)

The provisioning system in the specification discloses as providing “details to the AMS [asset management system] about the asset”, which include “the location in the staging server’s databases of the asset.” (Specification, page 12, lines 9-11). It appears that inserting “tags” into program content is not the same as providing details about the location of the asset in a staging server.

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 17 is patentable over *Chen*.

Claim 18

The Office Action alleges that “*Chen discloses a system of claim 17 [sic] wherein the content provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server. (column 7, lines 10-14).*” The referenced section in *Chen* discloses the use of a local tag authoring tool to insert tags into a program.

The referenced section of *Chen* does not disclose “rules”, nor discloses “distributing at least a portion of the content to the content server.” Indeed, the Examiner has analogized the content server to the multiplexer, and there is no mention of the word “multiplexer” at all in the referenced section of *Chen*.

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 18 is patentable over *Chen*.

Claim 19

The Office action alleges that “*Chen discloses... parsing the machine readable description to determine an application associated with the asset and identified by the related data (column 9, lines 7-21).*” The referenced section of *Chen* discloses the supervisor process processing the tags in a program.

The above section, as previously indicated, discloses a single application – the supervisor program, and there is no disclosure of multiple applications, and hence no need for an application identifier to identify a particular application.

The Office Action further alleges that “*Chen discloses... examining the related data at the application to identify the content server that should receive at least a portion of the content (column 9, lines 7-21).*” The referenced section of *Chen* discloses the supervisor process processing the tags in a program.

The referenced section does not disclose a “content server”, which the Examiner has previously alleged to correspond with the multiplexer 522 of Figure 7. The referenced section has no discussion of the multiplexer, and no discussion of how the supervisor program (analogized to be the application) identifies the “multiplexer” (e.g., the content server) that should receive the content.

The Office Action further alleges that “*Chen discloses... the application instructing the content server to retrieve the content from the staging server (column 9, lines 7-21).*” The referenced section of *Chen* discloses the supervisor process processing the tags in a program.

The referenced section does not disclose the “content server” (analogized to be the multiplexer server) involved in any communication with the “application” (analogized to be the supervisor program).

Thus, since several limitations are not disclosed in *Chen* as alleged, Applicant submits that *Chen* does not disclose the claimed limitations, and claim 19 is patentable over *Chen*.

Claim 20

The Office Action alleges that “*Chen discloses a method of claim 19 [sic] further comprising the step of receiving the content from the staging server (column 7, lines 5-7).*” The referenced section pertains to the tag authoring system in the computer for inserting local tags into the program content.

Dependent claim 20 incorporates the limitations from claim 19, which has been shown to be patentable over *Chen*. Consequently, Applicant submits that *Chen* does not disclose the claimed limitations, and claim 20 is patentable over *Chen*.

Claim 21

The Office Action alleges that “*Chen discloses a method of claim 20 [sic] wherein the receiving step comprises the content directly from the staging server (figure 7).*”

Dependent claim 21 incorporates the limitations from claim 19, which has been shown to be patentable over *Chen*. Consequently, Applicant submits that *Chen* does not disclose the claimed limitations, and claim 21 is patentable over *Chen*.

Claim 22

The Office Action alleges that “*Chen discloses a method of claim 20 [sic] wherein the step of parsing the machine readable description to determine an application associated with the asset and identified by the data comprises: retrieving the machine readable description from the staging server; and parsing the machine readable description to determine an application associated with the asset and identified by the related data (column 9, lines 7-21).*” The

referenced text of *Chen* pertains to the tag-authoring tool that is used to insert local tags into the programming content and also discusses the supervisor program that processes the tags.

Applicant notes that the text in *Chen* does not disclose “determin[ing] an application ... identified by the related data.” As stated previously, *Chen* discloses a single supervisory program that processes tags, and there is no disclosure of determining which supervisory program is to be used, nor is there any disclosure of the tag identifying which supervisory program is to be used.

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 22 is patentable over *Chen*.

Claim 23

The Office Action alleges that “*Chen discloses a method of claim 20[sic], wherein the step of examining the related data at the application further comprises the step of identifying the at least one server that should receive at least a portion of the content based upon rules defined by a user associated with the application (column 9, lines 7-21).*” The referenced text pertains to the supervisor program and the processing of tags.

The referenced text of *Chen* does not disclose any “rules”, much less “defined by a user associated with the application.” Further, there is no disclosure of using the “tag” or any other data to identify one of several supervisor programs to process the tags. *Chen* only discloses a single supervisor program, and there would be no need to identify which one is to be used, as there is but only one choice.

Applicant submits that *Chen* does not disclose the claimed limitations, and claim 23 is patentable over *Chen*.

Claim Rejections Based on 35 U.S.C 103

Claims 2-4

Claims 2-4 are rejected as being unpatentable over the combination of *Chen* with U.S. Patent No. 6,138,119 ("*Hall*").

Applicant submits that a prima facie case of obviousness has not, and cannot be established, because the combination of the two references would not result in the teaching or suggestion of the claimed limitations. First, as previously discussed, *Chen* does not disclose the limitations of claim 1, so that dependent claims 2-4 cannot be said to obvious in light of *Chen* and *Hall*, where *Chen* is relied up to have disclosed the limitations in claim 1.

Further, the combination of *Chen* and *Hall* (or in fact, any other reference) for the purpose of modifying *Chen* to incorporating recursive assets does not make sense. *Chen* embeds "tags" into program content, where the tag is a marker indicating the substitution or overlayment of the enhanced content. Thus, a news show may have a tag that indicates that a weather banner may be present on the screen over the news program. Thus, the view sees the news show with a weather-related banner at the bottom of the screen. What would the concept of a "nested" asset in *Chen* correspond to? Would it correspond to a news program with a weather banner, which has a sub-portion corresponding to another nested enhanced content? This is truly a hypothetical scenario as *Chen* does not suggest that such a combination makes sense, or is desired, or is possible.

Further, the Office Action states that the motivation combine the references "*would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.*" The *Chen* reference does not indicate that "simplifying the transmission process" was a problem to be solved. The *Chen* reference address the ability to process program content so as to insert local enhanced programmed. The problem to be solved by *Chen* was not related to simplification of the transmission process; rather this appears to be a motivation developed by the Examiner. Consequently, Applicant submits the motivation to combine is deficient, and there is no identification of where in the prior art, this basis for motivation is derived from.

Claim 8

Claim 8 is rejected as being obvious in light of the combination of *Chen* in view of U.S. Patent 6,564,263 (“Bergman”).

In addition to claim 8 being patentable for incorporating the limitations of claim 1, the prima facie case of obviousness is deficient because insufficient basis for combining the references has not been shown. Specifically, the Office Action states that the motivation to combine the references “*would have been to use a well known description language so that it would be simpler for people to create metadata for the content.*” However, the *Chen* reference does not indicate that this was a problem to be solved; rather this appears to be a motivation developed by the Examiner, not the references. Consequently, Applicant submits the motivation to combine is deficient and there has been no identification of where in the prior art this basis for combination is derived from.

Claim 16

The Office Action states that “*Claim 16 is rejected un 35 U.S.C. 103(a) as being unpatentable over Chen. The Examiner takes Official Notice that it is notoriously well known in the art to use FTP to transfer filed on a communication network.*”

Applicant concedes that FTP is well known to transfer files in a network. However, the claim recites more than just transferring files using FTP. There are limitations which the Examiner has not addressed – namely claim 16 recites in part “wherein the content server requests the at least a portion of the content from the staging server using File Transfer Protocol (FTP).” With respect to limitations “the content server requests the at least a portion of the content from the staging server”, there is no allegation that *Chen* discloses the content server transmitting a request to the staging server for any content. Based on prior allegations made by the Examiner, in which the multiplexer is alleged to anticipated the content server, and the capture device is alleged to anticipate the staging server, this would require the multiplexer requesting content from the capture device. Applicant submits that there is no disclosure of this in *Chen* and that claim 16 is patentable over the combination.

Appl. No.: 10/053,867
Amdt. dated 04/04/2007
Reply to Office action of February 8, 2007

SUMMARY/CONCLUSION

Applicant submits that it has been sufficiently shown that not all of the independent limitations in the independent claims are disclosed in *Chen* as alleged. Further, the fundamental purpose of “tags” and program content in *Chen* is not analogous to the content objects and metadata objects recited in the present claims. The tags in *Chen* are not related to the contents of the program content.


Applicant has amended the claims to better state the present invention, and submits that the claims are in a condition for allowance. Applicant respectfully requests that the notice of rejection be withdrawn and that the claims be placed in a condition of allowance. Should any minor amendments be suggested by the Examiner so as to avoid a rejection and therefore place the claims in allowance, the Examiner is encouraged to contact the attorney below at (404) 881-4748.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Karl H. Koster/

Karl Koster
Registration No. 50,684

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| Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Atlanta Office (404) 881-7000 Fax Atlanta Office (404) 881-7777 | <p style="text-align: center;">CERTIFICATION OF ELECTRONIC FILING</p> <p>I hereby certify that this paper is being filed via the Electronic Filing System (EFS) to the United States Patent and Trademark Office on the date shown below.</p> <p> Shana Moore</p> <p style="text-align: right;">4/4/07 Date</p> |
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